

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

LARRY WARNER

PLAINTIFF

v.

CIVIL ACTION NO. 2:15-CV-157-KS-MTP

**NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA,
GALLAGHER BASSETT SERVICES, INC.,
GALLAGHER TRANSPORTATION SERVICES,
ARTHUR J. GALLAGHER RISK MANAGEMENT
SERVICES, INC., CMC CLAIMS MANAGEMENT
SERVICES, LLC, AND JOHN & JANE DOES 1-10**

DEFENDANTS

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant National Union Fire Insurance Company of Pittsburgh, PA's ("National Union") Motion to Dismiss [2]. After considering the submissions of the parties, the record, and the applicable law, the Court finds that this motion should be denied.

This action arises out of National Union's alleged failure to pay a claim under Plaintiff Larry Warner's ("Plaintiff") occupational accident policy. Plaintiff claims this policy with National Union was in effect at the time of his accident and that National Union breached its contract by failing to pay his claim. (*See* Complaint [1-2] at p. 6.) In its Motion to Dismiss [2], National Union claims that the policy Plaintiff held with it had expired by the time his accident occurred and that the claims against them should be dismissed accordingly.

In analyzing a motion to dismiss, the Court must accept all well-pleaded factual allegations as true. *See Randall D. Wolcott, M.D., P.A. v. Sebelius*, 635 F.3d 757, 763 (5th Cir. 2011). Plaintiff has sufficiently pleaded his allegation that there was an occupational accident policy issued by National Union in effect at the time of his accident. Therefore, because the Court must accept this as true for purposes of this motion, National Union's Motion to Dismiss [2] must be **denied**.

IT IS THEREFORE ORDERED AND ADJUDGED that National Union's Motion to Dismiss [2] is **denied**.

SO ORDERED AND ADJUDGED this the 4th day of January, 2016.

s/ Keith Starrett
UNITED STATES DISTRICT JUDGE